

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 10395 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

-
1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the Judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

PANCHMAHAL DIST. REV. SUB-ORDINATES ASSOCN.
VERSUS
STATE OF GUJARAT

Appearance:

MR MG NAGARKAR for Petitioners
MR VB GHARANIA, AGP, for Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of decision: 28/04/99

C.A.V. JUDGMENT

Heard the learned counsel for the parties.

2. The petitioner, Panchmahals Dist. Revenue

Subordinates Association, filed this petition under Article 226 of the Constitution and prayed for issuance of a writ of mandamus and/or any other appropriate, writ order or direction to quash and set aside the order passed on 19th May, 1998, annexure -D transferring class-III employees from different Districts to Dist. Panchmahals. Other consequential reliefs have also been prayed for.

3. Annexure 'D' the order impugned in this special civil application is there at page No.51. However, the learned counsel for the petitioner admits that as a consequence of this order only one person namely, Shri B.S. Panuda has been transferred from Palitana to Dahod district. That person has not been impleaded as party to this special civil application. If we go by the facts and the grievance made by the petitioner in this special civil application and the relief prayed for therein, on request transfer if one employee comes from one district to another district, it has to be at the loss of seniority. On this principle, no quarrel can be there. But in this special civil application, this point cannot be decided for two reasons firstly that, that person has not been impleaded as party and secondly, this point is not available to the petitioner, at this stage, as admittedly the concerned district administration has not assigned the seniority to the transferee. Interpretation which is sought to be given by the petitioner to some of the terms of the order, annexure H dated 1-12-1998 cannot be gone into at this stage.

4. Though at this stage, I do not find it to be a fit case where any interference can be made in the order impugned in this special civil application but as and when any seniority list is published whereunder the seniority is assigned to this transferee on the basis of thier continuous length of service, it shall be open for the petitioner to raise objection, and if such an objection is raised then the concerned authority has to decide the same in accordance with law and where it is not acceptable, by passing a reasoned order and then the aggrieved persons may raise their grievance before the appropriate legal forum available i.e. in case it is appealable before the appellate authority and in case it is not appealable then where the remedy lies.

5. In the result, this special civil application is dismissed subject to the aforesaid directions. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-